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October 7, 2005

AZ CORP COMMISSION
DOCUMENT CONTROL

Arizona Corporation Commission

Jeff Hatch-Miller, Chairman
William A. Mundell
Marc Spitzer
Mike Gleason
Kristin K. Mayes

Re: Docket No. L00000B-04-0126; Line Siting Case No. 126

Dear Commissioners:

I am writing to you regarding my absence and that of our clients Vanguard Properties, Inc., Roadrunner Resorts, LLC, CMR Casa Grande, LLC, and Florence Copper, Inc. (collectively, "Vanguard") from the special open meeting held last Wednesday, September 28, 2005. I did not attend because neither Vanguard nor I received notice of the special open meeting.

After applications for rehearing were filed, we had a paralegal checking the Commission website on a daily basis for procedural orders or notices concerning how the Commission intended to handle briefing and potential argument on these applications. I understand that the special open meeting was placed on the website only on short notice, and the paralegal had already checked the site and the docket before this notice was posted. Moreover, Line Siting Chairman Laurie Woodall had sent a courtesy copy of the notice to a mailing list of parties in the line siting proceeding, and this is the means by which virtually everyone who attended found out about the hearing. However, neither I nor Vanguard's other counsel of record, Rodney Ott, were on that list. Florence City Attorney James Mannato, who also filed an Application for Rehearing, was also not on the list. I have attached a copy of an exchange of emails with Ms. Woodall regarding this issue.

In response to questions by the Commissioners at the open hearing, at least as to me or any client I would ever represent before the Commission, it is not necessary to subpoena or sanction counsel to appear. Indeed, whether or not a position is going to be well received by the Commission, I perceive that it is our duty to both the Commission and the client to appear and forthrightly respond to questions or

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comments by the Commission as to any pending matter. All that is necessary is reasonable notice that a meeting will be held at which counsel will be expected to appear and respond to questions by the Commission. Many of the lawyers who appear before you, myself included, are trial lawyers with active calendars and conflicts in scheduling. The more notice the Commission and Staff can give us of a hearing, the more opportunity we will have to adapt our schedules to attend. Again, as to the September 28 proceeding, I did not have this opportunity because I did not receive notice of a hearing in the first instance.

In response to the Commission's directions, Vanguard has been actively working with Pulte Homes and Salt River Project to address the issue of corridor width below Node 81. These parties will timely be filing their positions on the Commissioners' inquiries, and will look forward to appearing before the Commission, if directed to do so, to address questions or concerns. We have redoubled our efforts to check the website several times a day while matters such as this are pending, but respectfully ask that the Commission provide, if at all possible, written notice of hearing to the parties to a proceeding, as much in advance as possible, so that our goal of being able to address the Commission's concerns can be achieved.

Sincerely,

A handwritten signature in black ink, appearing to read "St. A. Hirsch", written in a cursive style.

Steven A. Hirsch

SAH:clm

cc: Parties and Counsel of Record

Hirsch, Steven

From: Laurie Woodall [laurie.woodall@azag.gov]
Sent: Friday, September 30, 2005 9:55 AM
To: sahirsch@BryanCave.com
Cc: dtargovnik@admin.cc.state.az.us; jheiler@aol.com; meek@auia.org; leonard.Bell@azbar.org; karrint@biskindlaw.com; lvandenberg@cc.state.az.us; scottm@ci.casa-grande.az.us; UGordwin@ci.casa-grande.az.us; jdacey@gblaw.com; crich@jordenbischoff.com; sundlof@jsslaw.com; lvrobertson@mungerchadwick.com; MDEBLASI@quarles.com; rferland@quarles.com; LFRAFFAE@srpnet.com
Subject: Re: Line Siting Case No. 126



Laurie Woodall.vcf
(3 KB)

Mr. Hirsch and Mr. Ott:

I have belatedly included you on my electronic parties list.

I sincerely regret that you were not included in my electronic parties list, which I used to forward a copy of the Commission's agenda for the 9/28 meeting to all parties in case 126. I suspect my omission was related to Vanguard's late appearance in the case, and my difficulties in editing the list. Of course it was not intentional.

I also appreciate your acknowledgement that I have no formal role in providing notice of Commission proceedings.

However, I recognize it is distinctly possible that reliance was placed on my voluntary action

(without scrutiny of the CC list, any recipient might well conclude that the list was complete, and that notice had been provided to all parties) and accordingly, I express my apology to you, and to Commission staff that my efforts were not complete.

Laurie A. Woodall
Assistant Attorney General
Environmental Enforcement Section
1275 W. Washington
Phoenix, AZ 85007

phone: 602 542 8864

fax: 602 542 7798

Secretary: Terri Martin-Potts 602 542 8547 or Kristin English 602 364 3319
This e-mail and any attachments may contain confidential or privileged information. If you have received this communication by error, please do not read or disseminate it. Please call Terri Martin-Potts at 602 542 8547 to advise that you have received it in error.

>>> <sahirsch@BryanCave.com> 09/29/05 6:30 PM >>>

Laurie:

Court Rich just informed Rodney Ott and me that there was a special open

meeting yesterday morning at the Commission at which Pulte's and Vanguard's applications for rehearing were discussed for some two hours. He forwarded us your e-mail notifying the parties of the special meeting sent Tuesday morning, the day before the hearing, but neither Rodney and I are on that list and neither of us or anyone at Vanguard had notice of the meeting (the recipients are in the cc line above). We have been checking the docket daily for any postings and were especially watchful for a Procedural Order setting forth any additional briefing or hearing schedules. This is the sole reason we and representatives of Vanguard did not attend the meeting.

I know it is not your responsibility to notify the parties when you catch notice of such meetings, and it was professional of you to FYI the parties that such a quickly-noticed meeting had been set, but we were not included in the notice. I would appreciate it if you could add me and Rodney to your listserv for any such informational e-mails: sahirsch@bryancave.com <mailto:sahirsch@bryancave.com> and rwott@bryancave.com <mailto:rwott@bryancave.com> . We are ordering an accelerated copy of the transcript and will likely file a notice with the Commission as to why we did not attend the special open meeting after we review the transcript. Steve Hirsch Bryan Cave LLP

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